

Application No. 10/518,657

REMARKS

In response to the restriction requirement, claims 25-59 are pending.

Applicants elect the claims of Group I drawn primarily to the aircraft landing gear door assembly. The restriction requirement between Group I and Group II is respectfully traversed. The Examiner appropriately cites MPEP 806.05(e) and indicates that restriction between the method and apparatus for practicing the method is proper because the apparatus can be utilized to leave the doors open when the landing gear is deployed. Applicants respectfully assert that the Examiner has not met the burden of showing the apparatus can practice a **materially different method**.

The Examiner asserts the apparatus can be used for a different method, namely "leaving the door open when the landing gear is deployed." It is noted that this **has to happen** under any circumstance in order to get the landing gear deployed and thus this is not a difference and is not a material difference. The Examiner may have meant "leaving the door open after the landing gear is deployed and not closing the door in the process." As discussed below, it is not believed that even this is a **materially different process**.

The apparatus of claim 25 specifically claims that the first door is free to move between its open and closed position. To assert that if it doesn't so move (between the open and closed even though it is capable of doing so) it is practicing a materially different invention than claim 46 is equivalent to saying that if any apparatus for performing a process can be turned off or could be rendered inoperative during the steps of a process, it has the capability of only performing part of a process which is then materially different than the completed process and restriction is proper. Pursuant to this argument, restriction between a method and an apparatus

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for performing the method is only **improper** if the apparatus is **incapable** of performing less than all of the steps of a process. Under this difficult standard, restriction would essentially always be appropriate for a method of more than one step and apparatus for performing the method. It is respectfully asserted that this interpretation of "material" is too onerous and the Examiner is respectfully requested to reconsider same.

With regard to the paragraph 6 requirement to elect amongst the two embodiments, this requirement is also traversed in that claim 25 states that the door assembly comprises a plurality of doors (i.e. two or more) and therefore covers both the cases where there are only two doors as well as the case where there are more than two doors, in other words there is a pronounced overlapping. The fact that claim 25 refers to "the plurality of doors *comprising* a first door and a second door" does not preclude the claim covering the case where more doors are provided (the term "comprising" is equivalent to "including" and should **not** be construed so narrowly as to mean "consisting").

Claim 36 being dependent on claim 25 (via claim 33) explicitly states that the plurality of doors may include a third door and a fourth door. This implies that it is within the scope of claim 25 both to have two doors and to have at least four doors. Due to the overlapping at a minimum, claim 25 should be considered generic.

Moreover, referring to paragraph 0018, of the published application, the specification says it is common to add a third door. The first and second door function as before with the second door remaining open after the first and third doors are closed as is illustrated in Figure 5 and as claimed in dependent claim 33. It is respectfully asserted that this is not a distinctly

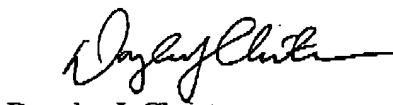
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different embodiment requiring a further restriction requirement. The Examiner is requested to reconsider the requirement.

An error in the dependency of claim 50 has been corrected and thus the Group I is appropriately 25-45 and this is what is provisionally elected. Additionally an error in the wording of claim 51 has also been corrected.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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